

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY**

**Call to Order:** By **CHAIRMAN JERRY O'NEIL**, on March 26, 2003 at 3:43 P.M., in Room 350 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Jerry O'Neil, Chairman (R)  
Sen. Duane Grimes, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Brent R. Cromley (D)  
Sen. Bob DePratu (R)  
Sen. John Esp (R)  
Sen. Dan Harrington (D)  
Sen. Emily Stonington (D)

**Members Excused:** Sen. Trudi Schmidt (D)

**Members Absent:** None.

**Staff Present:** Dave Bohyer, Legislative Branch  
Andrea Gustafson, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 734, 3/10/2003; HB 698,  
3/17/2003; HB 524, 3/10/2003  
Executive Action: HB 524; HB 90; HB 698; HB 384; HB  
205; HB 484; HB 464

**HEARING ON HB 734**

**Sponsor:** REP. BOB LAWSON, HD 80, Whitefish

**Proponents:** Deborah Swingley, Director, Developmental  
Disabilities Advisory Council  
Mark Simonich, Director, Department of Commerce  
Wally Melcher, MT Association for Rehabilitation, MT  
Association of Independent Disability Services  
Providers (MAIDS)

**Opponents:** None.

**Opening Statement by Sponsor:**

REP. BOB LAWSON, HD 80, Whitefish, said HB 734 was "an act changing the designated state agency for the Developmental Disabilities Planning Advisory Council (DDAPC) to the Department of Commerce." In summary, there were three WHEREAS'. The first one said "the Developmental Disabilities Assistance Bill of Rights Act of 2000, Public Law 106-402, requires each state to have a state council on developmental disabilities and to designate a state agency to provide support and administrative services to the council without interference or placement of conditions upon the operations of the council." The second WHEREAS "recognizes only one council in each state, which may take the form of a nonprofit corporation, and the state Developmental Disabilities Planning and Advisory Council is Montana's Council." The third WHEREAS stated that "each state is required to designate a state agency to administer the federal funds, but that the designated state agency may not provide or pay for services for individuals with developmental disabilities." REP. LAWSON said the DDPAC was created in 1971. Since then it had been administratively attached to the Department of Public Health and Human Services (DPHHS), formerly the Department of Social and Rehabilitation Services. DDPAC was enabled under Public Law 106402 and received 100% of their funding for \$400,000 annually in federal funds. DDPAC awarded and monitored grants and contracts for innovative demonstration of services for persons with developmental disabilities in the following areas of emphasis according to federal mandates. In private education, quality assurance, health, child care, recreation, early intervention, community supports and transportation. The designated state agency relationship was primarily a fiscal relationship. The designated state agency accepts, tracks, accounts for and reports on the allocated federal funds. DDPAC could and did pay for the services allowed by federal law. The reason for the move from DPHHS to the Department of Commerce was because the developmental

disabilities' systems and bill of rights states that a designated state agency may not provide or pay for the services of individuals with developmental disabilities. DPHHS did provide and pay for such services. PL106402 did allow a grandfathering of councils that were so attached before 1994, and DDPAC was grandfathered in. DDPAC would be viewed by consumers as a more neutral and flexible planning and change agency if they were outside DPHHS. Advocacy and system change activities could be best served if DDPAC were outside DPHHS. DDPAC had visited with DPHHS Director Gray and they also met with Governor Martz and with the Department of Commerce. DDPAC had and would continue to work with all interested involved parties during the proposed transition. **REP. LAWSON** pointed out on the fiscal note that the bill moved the Developmental Disabilities Planning Advisory Council from the Disabilities Service Division of the Department of Public Health and Human Services to the Department of Commerce. For the purposes of the fiscal note, it was assumed the DDPAC would be transferred to the Department of Commerce in its entirety and operated in the same manner as other administrative attached programs. The department would remain a designated state agency for funding purposes if the responsibilities of DDPAC were delegated by contract to a nonprofit entity. **REP. LAWSON** handed out an amendment for HB 734 **EXHIBIT (phs64a01)** and said the amendment had nothing to do with the reality of the bill. It dealt with the cleanup language, first on Page 2, starting with 2-15-2204. What that did was say "the governor shall appoint a developmental disabilities planning and advisory council in accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402." Then it listed the membership. Instead of listing in state law the specific people that were on DDPAC, it allowed the fallback of federal law. The idea was to delete all that language from state law and say that the governor *shall* appoint according to the federal law. He said in doing that they did two things wrong, but the amendment would fix them. The first mistake fixed was putting a House member and a Senate member back on the council. The second thing, in the cleanup language, the meat of the terms. There were 18 members, parents, relatives of persons with disabilities and 11 others including the Senate and House member, and other department heads served a different term of office. Those that served the extended terms, which were the developmentally disabled persons, parents, and relatives, stayed in but the term limits for the others stricken out, were put back in.

**Proponents' Testimony:**

**Deborah Swingley, Director, Developmental Disabilities Advisory Council,** read and submitted her written testimony.

**EXHIBIT (phs64a02)** She passed out and submitted copies of the letters supporting HB 734. **EXHIBIT (phs64a03)**

**Mark Simonich, Director, Department of Commerce**, said he was there to support HB 734. He said DDPAC had visited with the Governor about this, as well the DPPHS. He understood the necessity of having the DDPAC attached to something other than DPPHS. He said that even though it did not necessarily fit with what the Department of Commerce did, it did permit from a programtic standpoint, as it was shown, that it was not a necessity, it did not have to fit from a programatic standpoint. One reason it made sense to attach it to Commerce, was that as DDPAC made its move to become independent and nonprofit, it was strictly a pass through. The designated state agency was needed to accept the funds and then pass them through to the nonprofit.

**Mr. Simonich** said Commerce operated with most nonprofits around the state in a similar fashion currently. They received federal money through the Small Business Administration and they pass it through to small business development centers around the state. He said for them it was a contractual arrangement to help pass the money through, and it fulfilled the requirement of having a designated state agency accepting the money and being able to take care of the reporting back and dealing with the federal government.

**Wally Melcher, MT Association for Rehabilitation, MT Association of Independent Disability Services Providers (MAIDS)**, said they stood in support of the bill and felt that DDPAC had served a valuable purpose since its inception over the years as a planning ground and a neutral ground for people to come together. They had been a significant instrument for collecting data and had sponsored many projects that had resolved some problems. He said he was the past chair of the Planning Developmental Disabilities Planning Advisory Council and he encouraged a Do Pass of HB 734.

**Opponents' Testimony:** None.

**Informational Testimony:** None.

**Questions from Committee Members and Responses:**

**SEN. DUANE GRIMES, SD 20, Clancy**, asked if there was not a nexus between DDPAC and the Department of Commerce, why were they doing this. **REP. LAWSON** said it was several reasons. One, the law had changed but when DDPAC was appointed in 1971, existing federal law said the developmental disabilities assistance bill of rights states the designated state agency may not provide or pay for services for individuals with developmental disabilities. DDPAC

was grandfathered in since 1994. The consumer often had the notion that DDPAC was an arm or division of DPHHS, that they were one and the same and they were not that. DDPAC tries to act as an advocacy group or a planning group, and as a change agent. He said there were no strained relations between the department and DDPAC. DDPAC's goal was to do a better job as an advocate and a system change agent by showing their complete independence from the department.

**SEN. GRIMES** said it was not a federal requirement that they change, but because they had been grandfathered in, they could get out from under that if they changed. He asked if there were no federal impetus for it. **REP. LAWSON** referred to **Ms. Swingley**. **Ms. Swingley** said the one thing both department attorneys, DPHHS and the Federal Administration on Developmental Disabilities legal staff agreed that DDPAC was in an inappropriate placement because of the phrase that they should not be attached to a department that paid for and provided services for persons with developmental disabilities. Since the council was extending its efforts to become an independent entity, the attorneys agreed it was the one thing that needed to change was that designation.

**SEN. GRIMES** said DDPAC was an advocacy group for issues that would be placed or demanded of and brought to DPHHS and wanted to understand why move an advocacy group from a place with which it needed communication and coordination. **REP. LAWSON** said it did not necessarily delete or delineate their ability to communicate with DPHHS. There was a positive working relationship with them and would continue to be so. It put them on firmer ground as an independent advocacy and systems change agent.

**SEN. DAN HARRINGTON, SD 19, Butte**, asked why the Department of Commerce. **REP. LAWSON** said it could be any department. It could be the Department of Livestock, the Department of Brands or whatever. They looked around and visited with the Governor's Office and other agencies and decided Department of Commerce would be a good fit. Right now with the Department of Commerce there were deals with a nonprofit pass through money that basically kept all funds. They would be attached to Department of Commerce, and after DDPAC became nonprofit, Commerce would still handle their fiscal responsibilities. The Department of Commerce was willing to have DDPAC, they did much of the pass through, and they had the staff to take care of DDPAC's needs.

**SEN. HARRINGTON** wondered because of the sprawling DPHHS to bring it to Commerce, would they have more attention and asked if that played into their decision. **REP. LAWSON** said no it did not. The size of the department had nothing to do with their function.

**SEN. GRIMES** asked how long **REP. LAWSON** had served on the council. **REP. LAWSON** said he took **Robert Summerville's** position on the council when he was defeated for elections in 1997.

**SEN. GRIMES** asked if DDPAC felt thwarted in anyway or unrecognized or unappreciated by DPHHS. **REP. LAWSON** said no, that it did not have anything to do with it. They thought it just put them in a better position of advocacy.

**SEN. GRIMES** asked what did they want to change about membership of DDPAC. **REP. LAWSON** said nothing. It was just cleanup language. They were not changing anything, just clarifying the language. He said what they needed to do was mirror the federal law. The amendments were cleanup language. It was an attempt to delete out of state statute because the membership was dictated by the federal government, by federal statute, with the exception that Montana's went a step further in having a Senator and a Representative. The amendment was also there to make sure they were still on the DDPAC, besides clarifying the term limits.

**SEN. GRIMES** asked if the bill had anything to do with feelings on the committee, for example, moving people into community settings and closing the Boulder Developmental Disability Center, did it have anything to do with that. **REP. LAWSON** said no. He said he served on the Children, Family, Health and Human Services during the interim several years ago and they looked at closing down of the facility in Boulder. He said it had absolutely nothing to do with that.

**REP. BRENT CROMLEY, SD 9, Billings,** asked how big the board would be. **REP. LAWSON** said 29. It would be the same as before.

**SEN. CROMLEY** asked how that was dictated. **REP. LAWSON** said in Subsection 1, Page 2, "the governor shall appoint a developmental disabilities planning and advisory council in accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402." Out of the 29 positions, 27 were listed in federal law. DDPAC added the Senator and the Representative to make 29.

**SEN. CROMLEY** said on Page 3, Line 3, Sub (2a) stated "the governor shall appoint one-half of the members who represent developmental disabilities . . . ." He asked how many persons were involved there. **REP. LAWSON** said there were 18. He said the amendment had nothing to do with the bill itself. The drafter was trying to clean up the language. On Page 2, Line 5, which was crossed out. It used to be six people with developmental disabilities and six people who were parents or guardians of a child with developmental disabilities and six persons who were

immediate relatives or guardians of adults with developmental disabilities. Those were the 18 they were talking about on Page 3, Lines 4 and 5.

**{Tape: 1; Side: A}**

**SEN. CROMLEY** said that was his concern, taking out the reference to the 18 members. Pointing one half the members could be an odd number. **REP. LAWSON** said cleanup language was the intention and the membership was dictated by federal statute except adding the Senator and the Representative.

**SEN. CROMLEY** said (a) was except as provided for in 3(b) members who shall serve one year terms. When he looked at (b), it looked like one-half were serving terms concurrent with the governor and the other half were serving terms ending two years after the end of the governor's term. He did not see anyone serving a one year term and wondered why. **REP. LAWSON** said the people serving one year terms now, Page 3, Lines 10-11, was stricken language again. Members appointed to the council to fulfill representory requirements in the old sections 2(d) through 2(m) shall serve one year. Those were the people in the cleanup language who were missed and were why the amendment was needed to put that term limit back in.

**SEN. CROMLEY** asked if someone might look at that because the section **REP. LAWSON** was referring to was taken out and did not think membership could be determined clearly anymore. **REP. LAWSON** said he felt comfortable with it and had been working with the committee's legislative staffer, **Dave Bohyer**. He said they would do whatever needed to be done.

**SEN. GRIMES** asked if the reason for the removal of Sub (b) on Page 4, Lines 15-16 had been explained. **REP. LAWSON** asked to refer that question to **Ms. Swingley**. **Ms. Swingley** said it was old language from 1971. The council was an advocacy component. They had limited dollars and far be it for them to plan and give it to the state and say, 'here's how you are going to deliver services.' She said that was not their job, but rather to advise on services or make recommendations or advocate for certain services that they would like to see in a service delivery plan. The council's core purpose was to write a state plan for how the council will expend its dollars. She said it had unfortunately stayed in state statute for all those years.

**SEN. GRIMES** asked **Ms. Swingley** why they were doing this again. **Ms. Swingley** said it was the next evolutionary step for councils to take across the nation. There was a council and trust territory in every state.

**SEN. GRIMES** asked why the members of the council want to be disconnected from the very agency that they are advising. **Ms. Swingley** said to be viewed more as a neutral planning entity. Sometimes there was a risk if attached to a department, where the council could be viewed as a rubber stamp. She said they had always had an excellent working relationship with DPHHS and that was not going to change. She said the relationship was only going to get stronger with the council as an independent entity. With all the constituents served, DDPAC will be viewed as a more neutral planning entity, changing agent.

**SEN. JOHN ESP, SD 13, Big Timber**, said he was hung up in the same place as **SEN. CROMLEY** and thought maybe what he needed to do was talk to the drafter to see what needed to be done.

**SEN. O'NEIL** asked what the organization paid for office space to the department currently. **Ms. Swingley** said as for rent, it was a state lease in a privately held office downtown in the Arcade Building. The rent and utilities paid was approximately \$940 a month paid to a private party.

**SEN. O'NEIL** asked if none of the money was going to DPHHS. **Ms. Swingley** said correct. DPHHS currently were the designated agency and they processed the money, but were not paid directly. They were the clearing house. They currently pay all their bills online through the AWAC system. Prior to that a person who was physically at the Department of Public Health and Human Services would approve the payment and then it would go through the system.

**SEN. O'NEIL** asked if the department received \$1000 a year from the council. **Ms. Swingley** said those costs per federal law, paid DPHHS about \$14,950 annually.

**SEN. O'NEIL** asked if the money would go to the Department of Administration if the bill were approved. **Ms. Swingley** said it would go to the Department of Commerce. As a nonprofit entity, the same duties would be required of the Department of Commerce as had been through DPHHS.

**Closing by Sponsor:**

**REP. LAWSON** said if the membership committee was causing some heartburn, which he sensed, he was willing to go back and make it right. At the same time, do not be diverted from the main focus of the bill. He assured the committee that they were not trying to manipulate or tamper with the membership or the terms. What they were trying to do was divorce it from state law so that



every time federal law changed, state law would not have to be changed.

**HEARING ON HB 698**

**Sponsor:** REP. KIM GILLAN, HD 11, Billings

**Proponents:** Kim Evermann, Vice-President, Brain Injury Association (BIAM)  
 Lois McElravy, BIAM  
 Stacy Rye, BIAM  
 Jeannie Raisl, Self  
 Kathi Gregoire, Self  
 Clarissa Werre, BIAM  
 Ann Uffalussy, Self  
 Judy Erickson, BIAM  
 Travis Ahner, MT Trial Lawyer's Association  
 Sami Butler, Montana Nurses Association  
 Beda Lovitt, Montana Medical Association  
 Wally Melcher, MT Association for Rehabilitation  
 Jani McCall, Montana Children's Initiative,  
 Deaconess Billings Clinic, MT Association of  
 Independent Disability Services Providers (MAIDS)

**Opponents:** None.

**Opening Statement by Sponsor:**

REP. KIM GILLAN, HD 11, Billings, said HB 698 created a traumatic brain injury advisory council. The council was funded by a voluntary checkoff on the vehicle registration. The reason for a traumatic brain injury council was that many people were not aware that Montana had the second highest rate of traumatic brain injury in the nation followed by Wyoming according to the Center for Disease Control and Prevention. She said many proponents who would follow her had lived through traumatic brain injuries or have relatives, neighbors, or close friends who have experienced traumatic brain injuries. They were more articulate in expressing the importance of the advisory council because it could provide a focus in Montana to direct the research and the education. A common theme heard was that many of them believed or testified that when there was access to good information concerning a person's recovery was critical. As for the fiscal note, the bill was amended in the House so that the people that

would be on the advisory council would only be compensated if there were available funding from the voluntary checkoff. The other part of the fiscal note that gave cause for concern was that it talked about expenditures of \$13,000. She said that was due to the reprogramming of the vehicle registration card. **REP. GILLAN** said she did some research on that and thought it unlikely the card would have to be reprogrammed. She thought \$13,000 was too high and thought it could be absorbed by the Department of Justice. She pointed this out because the only cost to the state would be participation in the advisory council. There was someone from DPHHS. Traumatic brain injury was a silent epidemic nationwide and being the second highest state should give everyone cause for concern. They were not asking for dollars to expand services. That was not the purpose of the bill.

**Proponents' Testimony:**

**Kim Evermann, Vice-President, Brain Injury Association (BIAM)**, read and submitted her written testimony. **EXHIBIT (phs64a04)**

**Lois McElravy, BIAM**, said 13 years ago she was rear-ended in an automobile accident that resulted in a brain injury. She did not know for two years that she had a brain injury, but rather that she was diagnosed as having post concussion syndrome and that her brain would heal itself and she would return to a normal life. It did not happen. Two years later she received a diagnosis of having a minor brain injury. She said in a car accident, the physical injuries heal and life is restored. She said this was not so with a brain injury. She had many goals and had plans for her life and they all changed. She said she did not look like she had a brain injury and people that meet her now, thirteen years later, do not recognize her having a brain injury unless they spent a day or two with her. **Ms. McElravy** said brain injuries did not go away, she just learns how to manage them. Because of the lack of wear down they experience, a door opening and letting in all the noise and commotion from the outside would send her into a tizzy to try to filter out all the noise and pay attention. She was unable to work because of that and she needed the perfect environment to maintain a high level of functioning. She wears down rapidly from lots of noise, activity and having to concentrate. She said she was fortunate to have therapy and many do not. Many are unaware they have a brain injury and do not understand the difficulties they may be experiencing. She said she supported HB 698 because 50% of brain injuries were caused by auto accidents. Everybody had an automobile and had to register it and that would give them the opportunity to become aware of traumatic brain injury.

**Stacy Rye, BIAM**, read and submitted Traumatic Brain Injury statistics **EXHIBIT (phs64a05)**, and read and submitted Reg Gibbs, President of the Brain Injury Association of Montana testimony. **EXHIBIT (phs64a06)**

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**Jeannie Raisl, Self**, read and submitted her written testimony. **EXHIBIT (phs64a07)**

**Kathi Gregoire, Self**, read and submitted her written testimony. **EXHIBIT (phs64a08)**

**Clarissa Werre, BIAM**, said two summers ago she was riding her bike to work at a bakery in Bozeman and had gone through an intersection blocked for vision on the right and she collided with a car. She was in a coma for a week and has suffered from a traumatic brain injury which had steered the course of her life in a different direction. She had just finished undergraduate school at Dartmouth College and was on her way to apply for medical school. She has had to rethink her life plans now. She was now trying to get the word out to others that being safe with seatbelts was important, helmets on their heads when biking or skiing for that matter. She said the best way to get that word out was through an advisory committee where the efforts would be coordinated getting the education out there. She said it would be much better for their recovery for those who had suffered brain injuries if they understood how important the injury was and understood the effects and what to do during the first year to reduce the negative effects. Furthermore, it would be good for the family members and friends to get the information. She strongly supported the bill and emphasized Montana being the second in the nation of having the most brain injuries and she asked for a Do Pass.

**Ann Uffalussy, Self**, read and submitted her written testimony. **EXHIBIT (phs64a09)**

**Travis Ahner, MT Trial Lawyers, Association**, said they stood in strong support of HB 698 and they were a supporting member of the Brain Injury Association of Montana. They sponsored a program that gave bike helmets to kids in schools who could not afford them. The basis of the program was on the educational aspects of getting awareness out to the community. They saw the need

because many of their clients had suffered a traumatic brain injury, which was why they saw the council playing an important role in providing the education and prevention of brain injuries.

**Mr. Ahner** said there was discussion in the House committee meeting regarding the support from different associations in advertising. The way the bill was set up, there was a checkoff for a donation. The MT Trial Lawyers' Association, as well as others were asked if they would support advertising to let people know there was that checkoff and **Mr. Ahner** wanted it to go on record that their association would support that through their members for advertising.

**Sami Butler, Montana Nurses Association**, said nurses across Montana strongly supported HB 698. On a personal note, **Ms. Butler** said she used to work in a neuro-trauma unit in a trauma hospital in Denver and based on that said that having an advisory council was extremely important and programs that focused on awareness, prevention, education, and support for those patients. She asked for support of the bill.

**Beda Lovitt, Montana Medical Association, Montana Psychiatric Association**, said the bill represented a small measure and a small opportunity to make some progress with an advisory council to go forward with some focus, education, and information awareness of the profound problem that was out there. She said it was not a huge expense. It needed to happen and urged support. She said that her association also stood ready to help in advertising, whether through bulletins or through the physician members.

**Wally Melcher, MT Association for Rehabilitation**, read and submitted his written testimony. **EXHIBIT (phs64a10)**

**Jani McCall, Deaconess Billings Clinic (DBC)**, said the information and education in an ongoing support network to managing any long term or life time condition such as TBI or Diabetes, or any of the other conditions was incredibly important and essential to prevention. DBC strongly supported the bill and asked the committee do the same. It would provide a foundation to a beginning of the network for education and knowledge that was critically important for the traumatic brain injury condition.

**Opponents' Testimony:** None.

**Informational Testimony:**

**Cecelia Cowie, Senior & Long Term Care Division, DPHHS,** said most of the services currently, Medicaid reimbursed for services for persons with a brain injury. She said she was there to answer any questions.

**Questions from Committee Members and Responses:**

**SEN. ESP** said it was talked about briefly a possible amendment that would direct the money to the Department of Revenue first and then to the state revenue account. On Page 4, Line 4, if inserted after "county treasurer *"to the department of revenue for the deposit in the state revenue fund..."* would she consider that. **REP. GILLAN** said she would but her question was that maybe it needed to go on Lines 7-8.

**SEN. ROBERT DEPRATU, SD 40, Whitefish,** said he had lived through this with his wife but her injury was not from an auto accident but from something that happened on the operating table. Stroke induced injury symptoms seem to mimic those of a brain injury. He wanted to know if the group worked with stroke victims also. **REP. GILLAN** said yes.

**{Tape: 2; Side: A}**

**SEN. BRENT CROMLEY, SD 9, Billings,** thought the council was a wonderful idea and said he would vote in favor it. He had some concerns about the funding of the council. On Page 2, Lines 1-2, he noticed reimbursement was changed to "may be reimbursed." He wondered if that limited membership to that ward to persons who could afford it, to afford to take time off to go to Helena but would not get reimbursed. He asked if that were necessary to get the bill passed. **REP. GILLAN** said yes and no. One thing was that they had many people on the committee who realized those who were state employees did not need to be reimbursed. She went back to former **REP. TOM DELL** if there were not enough money, would people still participate. He assured her that it was possible. She felt strongly there was a lot of motivation from the group to have the council and to get it going. She hoped and thought there would at least be money for reimbursement for gas.

**SEN. CROMLEY** said his other concern was that it seemed an inefficient way to raise money if spending equal amounts of money to raise the same amount of money. He asked if there were any other alternatives. He also had concerns about the fund-raising ability because traumatic brain injuries were not as well known. When people see the choices on their registration, he wondered if it would raise sufficient funds to have that on the checkoff.

**REP. GILLAN** said those were valid questions. The type of advisory council they were talking about exists in more than 20 states. In several other states it was funded in a similar fashion. One challenge of having an advisory council funded by private groups, there was the potential to lose objectivity. There was some federal grant money administered but it was on a piece meal basis and certain groups applied to it. The people that were involved felt an advisory council was needed. That was objective and was not linked to any particular funding source, such as a private source or foundation, and could probably speak honestly or frankly on how the very limited resources should be allocated.

**Closing by Sponsor:**

**REP. GILLAN** said many questioned whether an advisory council could be effective. Many who spoke earlier mentioned how it would provide focus and coordination for scarce resources. In some urban areas there was awareness but in many rural areas there was not. She went online and did some research and found advisory councils at a state level resulted in more data that helped design prevention and education programs. They were more focused rather than people just shooting in the dark. The advisory councils in those states had found more information had allowed them to use their resources in more focused area. It was a modest proposal and asked that it be given a try. One of the challenges faced, due to medical technology, the number of TBI fatalities were dropping. That also provided a serious public health challenge because more were surviving that may have TBI and the education needed to be put out there.

**HEARING ON HB 524**

**Sponsor:** **REP. SCOTT MENDENHALL, HD 39, Cardwell**

**Proponents:** **Rayelynn Connole, Alternative Youth Adventures (AYA)**  
**Nita Johl, Self**  
**Tom Lythgoe, Jefferson County Commissioner**

**Kim Gardner, Administrator, AYA**

**Jani McCall, Montana Children's Initiative**

**Opponents:** None.

**Opening Statement by Sponsor:**

**REP. SCOTT MENDENHALL, HD 39, Cardwell,** said HB 524, on Page 5, Line 26, defined outdoor behavioral *"program as a program that provided treatment , rehabilitation, and prevention for behavioral problems that endanger the health interpersonal relationships, or educational functions of a youth and that: serves either adjudicated or nonadjudicated youth; charges a fee for its services; and provides all or part of its services in the outdoors. "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations."* In new Section 2, Page 7, Line 18 specified that DPHHS *"shall provide for licensure of a qualified outdoor behavioral program that accepts public funding,"* which was what the bill did. He said it was important to note that Line 21 said *"that accepts public funding."* It did not affect programs that are private paid, only those that are accepting public funding. Currently only one mental health center qualified for that in his district and that was Alternative Youth Adventures. AYA was a five-month program and they had a licensed mental health center on either end of the outdoor program. The first thing that happened was that an adjudicated youth went into an orientation and assessment program and for some they then had a back country experience for 60 days and then they came back to the licensed program. What they were asking for was that the middle portion, the outdoor program, be licensed as well. It made good sense and it was a rolling industry in Montana. It was an intervention program rather than letting kids end in the deep end of the system such as Riverside or Pine Hills. From an accountability stand point, licensing made sense when placing kids in a program like that. Such things as staff background checks, evacuation and medical plans, staff training and credentialing, nutritional needs, liability coverages, those kinds of issues could be taken care of in licensing. The bill was drafted with the cooperation of DPHHS staff that worked with the provider. It did not have a fiscal impact and would be done within the existing duties of the department.

**Proponents' Testimony:****Rayelynn Connole, Alternative Youth Adventures (AYA), Program**

**Director**, said she came to AYA as a teacher. She was a proponent of the issue because the measure ensures that upstanding therapeutical and educational programs that were willing to show public accountability were upgraded in the state. Other states had adopted legislation like what HB 524 proposed. Unfortunately the adoption had been in reaction to tragic events. Now, Montana had the opportunity to be proactive in its approach in licensing, rather than reactive. In the past year within the industry there had been three deaths. One was due to dehydration; one was due to exposure, the student was not properly outfitted and out too long in too high of heat; and the other was due to asphyxiation, where a student was held improperly by the staff and inhaled some dirt and died. **Ms. Connole** said Montana had been fortunate that there had not been deaths and fortunate there were programs that were willing to do quality work presently. Licensure needed to be moved forward to ensure that these things were not happening. The outdoor behavioral healthcare industry was also known as wilderness therapy or wilderness education or adventure therapy. It was a long-standing industry and a valid treatment approach that were not only used in this country but in other countries such as Australia and New Zealand. Programs using outdoor components to reach educational behavioral change goals that had been existence for more than 30 years, with dramatic increases in growth over the last ten years. The states experiencing the fastest rate of growth had been the western states such as Montana, Idaho, Utah, Oregon, and Colorado. Last year, Oregon and Colorado had started to adopt their licensing standards. Utah had their licensing standards in place now for three years. Again, those regulations came into place after there were deaths and lawsuits. Dr. Rob Cooley completed a survey of the industry in 1998 that estimated there would be 38 other outdoor behavioral programs with a total revenue of \$143 million per year. In a study completed in the year 2000 by Dr. Keith Russell from the University of Idaho, that estimate increased to more than 116 programs generating substantial revenues estimated at \$200-300 million annually. Dr. Russell and others had pointed out that it was also fair to assume that there are other programs that had not identified themselves as an outdoor program but met the criteria for the industry standard. In Montana there was an incident where a Utah program brought students to Montana and started operating their program right outside Butte near the Ramsey district area. Many programs like that can do that right now and she was saying, "let's not do that. Let's have some licensing standards and have some people watching it all." That program was shut down in Utah for abuse and neglect and then it came to Montana and continued to do the same thing. It was by



luck the people in Utah notified AYA about the program and AYA notified their forester that those kids were out in the forest. The industry definition for an outdoor behavioral program was a program which adolescents enrolled or are placed in the program by parents or by custodial authorities concerned for their well-being to change destructive, dysfunctional, or problem behaviors through clinically supervised therapy; and an established program of educational and therapeutic activities in an outdoor setting. The industry in other states had set the criteria for the length of a stay in the back country to be 14 days or longer. Hence this is why it said in the bill things like boy scouts were not going to be required to be licensed. The industry had been recognized as an important part of the continuing care for those in need. Additionally, outdoor behavioral health treatment was typically less expensive than traditional treatment with average day cost of \$151 compared with \$350-\$700 a day. Outdoor behavioral health programs had sometimes been confused and aligned with boot camps. She said outdoor behavioral health programs were widely respected in research forms of treatment and education and intervention. The wilderness therapy model was not aversive, avoids staff use of force and restraint, and allowed the force of nature as the teacher. The youth were treated with highest possible respect and compassion and given opportunity to develop internally motivated change, rather than being forced to adapt the change. The setting, the wilderness, the caring approach, and the experiential were hands on nature of the programming allowed a successful treatment of youth who typically had not responded to more traditional environments.

**{Tape: 2; Side: B}**

Forest use days were being tallied 420,000 use days per year, most of which was on public lands and some of that was designated wilderness area. **Ms. Connoles** said she believed it should not be the sole burden of the forest service to monitor and regulate use by outdoor behavioral programs and starting with programs that were accepting public funds were a good place. Licensing and accreditation could help decrease the financial burden of public agencies using the services by allowing the provider to accept either private insurance or possibly Medicaid. She said that was not clear right now but that it was possible that private insurance could be used. It also allowed that there was a strong continuum of care, not only by private providers that catered to parents with big checkbooks but also to public providers. The service should not be solely for those children who could afford it. The state acknowledges and accepts its responsibilities for oversight in regulation of the programs that were accepting public dollars. By that the state guaranteed quality of health,

care, education, and safety of the youth served. Moving ahead with the licensing process before a major accident would help ensure that professionals in the field were available to sit on the advisory board to set the administrative rules. Ultimately those professionals who had the greatest amount of depth and experience and knowledge could help to make sure that things were clear. There had been some discussion whether the state should pursue licensing now when it was possible that only one outdoor behavioral program existed. Regardless if there were one or none, if AYA lived or died, someone would pick up the void. Right now, people looked to expand their funding streams. She was sure the private sector would start looking to the public sector as well, which was why she thought it was time to look at licensing at this time.

**Nita Johl, Self**, said she was there to talk as a family member of a child in the Alternative Youth Adventure program. She reflected back to the last testimony for traumatic brain injury and said to imagine one of those with a brain injury had three small children and was not able to raise those children and their father was an alcoholic who made a choice to bring those kids to her house and leave them there. She became the guardian, caretaker of three small children in her home. The Department of Family Services had threatened to take them away from him, so he brought them to her and shortly after that disappeared. She said she had five children of her own and then she was a single parent. Several people she knew pointed out to her that he brought the children to the best place he knew a safe place for them to be. As she dealt with the challenges, she had tried to keep that in mind. The children were severely abused, neglected, and then abandoned. After about a year and a half of trying to take care of the children, she realized she could not take care of them. **Ms. Johl** said she did not have the resources, the patience, and the knowledge to deal with three exceptional children. The oldest was placed in a therapeutic foster home and would continue to live there until he was 18 years old. At that point, the state of Montana was through raising that child and will send him back to her. She said her experience as a parent raising children was that children were not ready to make the transition into adults at the age of 18. She said she would take that on and do what was needed to help him, whether it was his education or whatever. The second child was now 15 and in the Alternative Youth Adventures program. She exhibited some out-of-control behavior, such as running away a lot and putting herself in very dangerous situations. This was noticeable with this child very early at the age of ten. **Ms. Johl** said she had heard from a neighbor that this girl had accepted a ride from a 15-year-old boy to get to school because she had missed the bus. **Ms. Johl** said that terrified her and yet when talking to her niece, she could not

make decisions that would keep her safe and continued to exhibit that behavior and continued to place herself in very dangerous situations. She was taken out of **Ms. Johl's** home after the niece accused her of child abuse. **Ms. Johl** said she went through that investigation and she had a note after that saying it was unsubstantiated. It was decided at that point though, that she needed to be some place else because she needed individual attention. Nor did she want to live at **Ms. Johl's** house because she had rules. She was placed with another foster parent, who **Ms. Johl** continued to work with because she was part of her family. **Ms. Johl** said she was a Native American person and she believed and was raised to believe that they had an obligation to their family members. The youngest of the three children continued to live in her home and she and her husband were in the process of adopting him. She said she had two 14-year-old boys, neither one was her biological child, but she referred to them as raising the apostles. She had John and Peter. They had 10 siblings that helped in that process. She had five children. Her husband had five children, so it was 10 together and then they had the extra children. She said there was always someone in a crisis, yet they had a deep family commitment to do whatever was necessary to get all 13 of the kids through their education and anything else it would take to help them be responsible adults. She said five of her children were in college and they continued day after day to help them be responsible adult people. The reason programs were needed such as AYA, was because it was the only place they could put **Karen** to keep her safe. She had not committed a crime that was severe enough that would put her in a detention center and at the age of 15 it was also not appropriate. She could not wrap **Karen** in enough services to keep her safe. She continued to make poor judgments. One of the times she ran away, she did not take her shoes with her. The AYA program had been very influential in turning **Karen's** life around and as a parent they would not really know what had been accomplished until she was about 25 years old, but she was making better choices and was saying the right things. **Ms. Johl** said they had a support system around **Karen** currently that would help her get through those difficult situations. **Karen** continued to have contact with her mother who lived in Helena in assisted living situation and they would continue to help her deal with the other family dysfunctions such as her alcoholic father but she did not have contact with him because of his choice. **Ms. Johl** strongly urged support of the bill because safeguards were needed around the people who took care of children. She said it took more than one person in **Karen's** life to deal with her. She had borderline personality tendencies and did not tell the truth much. **Ms. Johl** said she had to keep checking. One of the last times she went to visit **Karen**, she was not allowed to see her because **Karen** had played the child abuse thing again. **Ms. Johl**

talked to **Karen's** counselor and he told her that some issues **Karen** had with her needed to be resolved like making her sleep on the porch. **Ms. Johl** quickly informed him she had never owned a house with a porch. **Karen** fantasized and made things up and she needed many people to be around her who had much education and experience of dealing with those kinds of children and would get right in her face and point out the reality and the fantasy. That there was a difference and the consequences that could happen if she did not know the difference. **Ms. Johl** said she strongly believed there needed to be licensing and monitoring of those kinds of programs so that not just anyone who sees an opportunity to make money could come into Montana and set up a shingle and have children end up there because parents could not find any information or have anyway to know if they were a good facility, then out of frustration let them take the child and settle for whatever. She again urged for the bill to pass and stressed the necessity of having safeguards.

**Tom Lythgoe, Jefferson County Commissioner**, said he was proud that AYA chose Boulder in Jefferson County to place their business. He said when he worked for the state he had the opportunity to manage a program where he spent much time at the Montana State Prison. From his experience he learned that there was a very thin line between those who did and did not end in that situation. **Mr. Lythgoe** said a program like AYA thickened that line and that was important. He said all of his adult life he had dealt with kids at risk. He had the opportunity to mentor kids at risk. He was a mentor to children who had wilderness program components attached to them and children that did not have wilderness programs attached to them. The difference between the kids coming out of those two programs was significant. The wilderness component to the program was essential. He felt it was important that the bill passed. Many children had come from homes with much dysfunction and when there was dysfunction in the home, they gravitated to peers that came from homes with dysfunction also. They ended up getting in enough trouble that they were then dealing with law enforcement. **Mr. Lythgoe** said at the end of the program, much of the dysfunction was gone. The kids that came out of the programs had a chance then to become a "**SEN. DUANE GRIMES**" or a "**REP. SCOTT MENDENHALL**" or like anyone else in the room. He urged support for the bill and hoped it was a Do Pass.

**Kim Gardner, Administrator, AYA**, said the program was called Alternative Youth Adventures, but it used to be called Aspen. They started as primarily correctional, although working in a joint effort with the Department of Family Services then and the

Department of Corrections. They started on the old Mountain View Campus. She said they had evolved over time and as they had gotten better, they had done more research and realized that so many kids in the system were part of a web. Many had mental health problems, many had family problems, most of them had chemical dependency problems. In identifying those problems, they realized they needed to focus on the whole child and the whole family. They changed from a correctional program to a mental health center. They did what they needed to do to become a health care facility and a mental health center. She said they had licensed professional and clinical social workers and therapists and they had accredited teachers. They evolved over time. **Ms. Gardner** handed out copies of a flow chart for the Alternative Youth Adventures program **EXHIBIT (phs64a11)**, as well as a flyer providing detailed information about the programs. **EXHIBIT (phs64a12)** She said there were other types of models, but the one passed out was the way AYA structured theirs. She explained the first portion of the program was called Base Camp East. It was in Boulder on the old MDC campus in some old renovated buildings they rent. She said it was all licensed. They stay there about a month, sometimes two. That was the orientation and assessment phase, to get them ready to a full assessment evaluation. They were in school everyday. After one month, they went into the back country. That portion of the program did not have any regulations or policies for having children in the woods. She said that concerned them. They did not want to do that. The kids were out there for 60 days. Formerly they were self-regulated by following the Utah/Colorado Medicaid Rules, although those were not in Montana, they followed their model. After 60 days, they came back to an all licensed and regulated later portion of the program. **Ms. Gardner** said the bill came about for the very reasons **Ms. Connole** mentioned earlier regarding the program that came out of Utah and set up camp in Montana. At that time, AYA realized they could be hung by that same rope and somebody might think they were just like that program where the kids were not fed and they were cold and wet and not well cared for. It was the impetus for them to start looking. In Montana there were 27 programs currently that were private paid, nine of them did wilderness excursions. There were 180 children in those wilderness programs. She believed those programs were doing good work, but her company felt it was their mission to take the state placed kids. They were the toughest and highest risk kids who were on their last string there. AYA wanted to stay public funded. Medicaid did not pay. However, AYA tried to keep their rates as low as absolutely possible and try to use the Medicaid as a barometer for their rates and keep them at that level. Because they do that, they cannot afford to have a membership in a private organization that provides accreditation. They know that regulation increased safety and

decreased risk. They know they need to count calories, keep kids warm, make sure the staff were credentialed and safe and have background checks, and they need to know they were doing it right.

**Jani McCall, Montana Children's Initiative Provider Association (MCI)**, said they had 14 providers statewide, and they provide children's mental health and multi-agency services including corrections, youth justice, chemical dependency, and many other services. AYA was a member of MCI. She said they believed the outdoor behavioral or wilderness programs were a valuable and needed component in the service delivery system in the state of Montana. She said **Ms. Gardner** was correct in saying the kids were incredibly tough. Many of them do not fit in the more typical kinds of services. The state now required typically all providers for children or adults with special needs to either be licensed or go through some sort of nationally accredited process to ensure there were standards in place so there were safety and quality of care. **Ms. McCall** said they were asking that the programs be licensed by the state of Montana as well.

**Opponents' Testimony:** None.

**Informational Testimony:**

**Mary Dalton, Quality Assurance Division, DPHHS**, said her division would be the division that would license the outdoor behavioral programs and she was there to answer any questions.

**Questions from Committee Members and Responses:**

**SEN. JOHN BOHLINGER, SD 7, Billings**, asked how many states had licensure programs and where they might be. **REP. MENDENHALL** said he did not know the number.

**{Tape: 3; Side: A}**

**Ms. Gardner** said there were two types of wilderness camps. One was trekking and the other was called base camp. In the east where there was less acreage, they had a more common program that was similar to a lodge where they went out for short trips and came back. Most of the eastern states that had programs were licensed in that matter. Further west where there was more

acreage, they were called trekking programs and seven states had trekking programs licensing categories. In Colorado, AYA had the same replica model. In Colorado it was licensed as a residential treatment center, but they waive the facility requirement, so there was no plumbing, lighting, etc. In Utah, it was regulated as a rehabilitation model and they waive the facility requirement also. In Idaho, they took the Utah and the Arizona regulations and blended them into a more comprehensive, simpler, easier to manage model and did not necessarily follow the Medicaid federal regulations. Each had their own individualized model.

**SEN. BOHLINGER** asked **REP. MENDENHALL** how he felt licensure would ensure the safety of the participants in the program. **REP.**

**MENDENHALL** said there was nothing 100%, but licensing lifted the standard and ensured that things like background checks were done, evacuation and medical plans were in place, staff training and credentialing were enforced, nutritional standards, liability coverage, and screenings took place and would help in creating a safe environment.

**SEN. BOHLINGER** asked whether he believed licensure would provide or assist to bring people into the program. **REP. MENDENHALL** said a licensed program was an endorsement of quality assurance. It might help **Chuck Hunter** to look for federal matching funds and make their state dollars go further.

**SEN. BOHLINGER** asked how many were currently enrolled and how many of them were Montanans. **REP. MENDENHALL** said the capacity was they went out in groups of ten. The program had about 25 and probably 90% of them were Montanans.

**SEN. CROMLEY** asked **Ms. Dalton** if AYA was licensed now. **Ms. Dalton** said they were licensed on two ends of it, as the handout showed. They were licensed the front end and the back end, but the middle part when in the wilderness they were not.

**SEN. CROMLEY** asked if the two ends that were licensed fell under Title 52. **Ms. Dalton** said they were licensed under two different statutes. The mental health center piece of it was the health care facility licensure.

**SEN. CROMLEY** asked about the middle portion of the program and wanted to know what exempted them from licensing.

**Ms. Dalton** said it did apply to all outdoor behavioral programs. The department did not have authority to license those programs right now. Right now they would fit under a section of 50-5-101 that was health care facility and needed a new category for outdoor behavioral programs. It would also only be for facilities that accepted public health funding.

**SEN. CROMLEY** asked if putting the licensing under Title 52 would be more appropriate. **Ms. Dalton** said it was discussed and the department was not a proponent or an opponent to the bill, but the reason it was put under a health care facility was because medical insurance was more likely to be obtained if they were a health care facility, than a treatment program.

**SEN. CROMLEY** asked if the facilities were available that cared for children who had behavioral problems, why was it distinguished between an indoor and an outdoor program. **Ms. Dalton** said she thought it was to be one of the most dangerous areas to be licensing a children's center. She said that when they start to go into outdoor programs, certain things have to be looked at. Kids get hypothermia if they are in the wrong place, they could get dehydrated, they needed to have an evacuation plan because it was not like the Yellowstone Boys and Girls Ranch in Billings where they might be somewhere doing some repelling off the rims. There was still the Billings Ambulance service to get them. If the kids were out in the back country a couple of days, it was a more difficult thing to get them out and there needed to be different training by the staff to keep the kids as safe as they can and they can until the staff could get emergency services in there. The licensing the department would do for that part would focus much more on things on which they do not normally focus. They usually wrote licensing regulations saying there will be good nutrition and a dietician will be consulted with. When licensing gets written for the outdoor portion, they would be looking at things like a caloric intake because being in the woods for several hours, a person had to have a certain level of a caloric intake. **Ms. Dalton** gave an example of her daughter who was in college had recently went on a back packing trip where they cross country skied into Minnesota. One of the things they had to do to be safe was to figure out how many calories they were going to expend because they were skiing eight hours a day at a certain level and how cold it was going to be and allow for all that and make sure they had the right kinds of food to give them enough of a caloric intake so that they were not burning down too far. They also had to make sure they had enough nutrition and hydration. Dehydration was one thing that killed kids.



**SEN. CROMLEY** asked if equipment were something else the department had to look into as well. **Ms. Dalton** said it would be a new adventure for them. They had never had been out in the woods either, so they would have to look at some kind of safety standard to make sure those who were doing different kinds of activities, were really trained and had the credentials.

**SEN. CROMLEY** asked if there was anyway the department could certify AYA for the middle portion of their program. **Ms. Dalton** said no, there were not any licensing categories right now that it would fit in.

**SEN. CROMLEY** asked if the Outward Bound program would fit under the same scope. **Ms. Dalton** said it was limited to only the facilities who would take public funding then. AYA was the only one in Montana that accepted public funding.

**SEN. GRIMES** asked if **REP. MENDENHALL** wanted to respond to any of the questions that had already been asked. **REP. MENDENHALL** said because there was not a licensing category right now was why they brought the bill. They believed there needed to be and it made good sense from an accountability and safety standpoint.

**SEN. GRIMES** asked if he could describe to the committee the critical nature of the passage of the bill and what effect it would have on the AYA program. **REP. MENDENHALL** said from a policy standpoint it made good sense in accountability of state funds. He said AYA was not doing well financially and they thought there was some opportunity of leveraging those funds and licensing would help secure business. He said it was also a good economic development project as well in the jobs it provided the community. He said the bill was not a guarantee the program would succeed but it would help in regard to that.

**SEN. GRIMES** asked what the absence of the bill would do in regards to the ability to access the forest service. **REP. MENDENHALL** said ten years ago a study was developed by the legislature to look at juvenile corrections. Out of that came the desire to start looking at some alternatives to incarceration. Out of that came a recruitment effort where they identified AYA as a one of those alternatives. In exchange for AYA being willing to come to Montana, Corrections gave them a contract for services. As part of that contract, they signed the back country operating permit with the Forest Service. As the industry grew, the desire for other buyers came to get into the

business and the decision last legislative session was to do away with the special contract. AYA was comfortable with that and thought there should be a more free marketplace. Last July the contract went away and all the providers could compete for those funds. At the same time, absent the contract, Corrections last spring and summer said they were going to sign the contract for the back country with the Forest Service that expired at the end of December, and because they no longer had a contract with AYA, despite many promises to the contrary, they ultimately in early December, decided not to sign the contract. AYA had then to remove that part of their program and 16 jobs. They thought the licensing would suffice in helping them obtain a permit.

**SEN. GRIMES** said he wanted to take the opportunity to tell her if she had never been told before publicly that she was a hero. He said if he had as much compassion and generosity in him as she did in her little finger, he would be a blessed man. He thanked her for her testimony.

**Closing by Sponsor:**

**REP. MENDENHALL** said they had a good hearing in the House, it passed 93-7 there. It really was about quality assurance, safety, and accountability. It did help economic development in his district, which was currently a top issue in the state.

**EXECUTIVE ACTION ON HB 524**

**Motion/Vote:** **SEN. BOHLINGER** moved that HB 524 BE CONCURRED IN.  
**Motion carried 6-0 with SEN. ESP and SEN. O'NEIL voting by PROXY.**

*{Tape: 3; Side: B}*

**EXECUTIVE ACTION ON HB 90**

**Motion:** **SEN. CROMLEY** moved that HB 90 BE CONCURRED IN.

**Discussion:**

**SEN. DEPRATU** asked if there were any amendments. **Dave Bohyer, Legislative Services Division**, said there was one on Page 8, Line 21. Following Line 21 there would be an insertion saying the department *shall* inform a parent or other person responsible for a child's welfare who would be considering entering a voluntary protective services agreement that they *may* have another person of the parent's or responsible person's choice present when the voluntary protective services agreement was discussed.

**SEN. GRIMES** asked if there were any other amendments.

**SEN. CROMLEY** said on Page 11, Section 6, Line 9, he was not sure there was a problem in new Section 6 concerning it dictating that the matter could not be dismissed until all the criteria had been met. He recalled **Ms. Brown's** testimony where she said often they were dismissed before that but it was the intent to have it dismissed when the three things had been accomplished. He wondered as an introduction to the first sentence, if it should be inserted, "if not previously dismissed, the court shall dismiss..." **Ms. Brown** thought it was a good idea.

**SEN. GRIMES** said to treat that as a concept amendment to give **Mr. Bohyer** some latitude, but thought the intent there was clear.

**SEN. ROBERT DEPRATU, SD 40, Whitefish,** said he had a note regarding that as well and was comfortable with **SEN. CROMLEY'S** amendment.

**Motion/Vote:** **SEN. CROMLEY** moved that **SEN. CROMLEY'S AMENDMENT BE ADOPTED.** Motion carried 7-0 with **SEN. ESP, SEN. HARRINGTON,** and **SEN. O'NEIL** voting by PROXY.

**Motion/Vote:** **SEN. CROMLEY** moved that **HB 90 BE CONCURRED IN AS AMENDED.** Motion carried 7-0 with **SEN. ESP, SEN. HARRINGTON,** and **SEN. O'NEIL** voting by PROXY.

#### **EXECUTIVE ACTION ON HB 698**

##### **Discussion:**

**Mr. Bohyer** said that **SEN. ESP** was interested in an amendment on Page 4, Lines 4 and 8, following "county treasurer," insert "to the department of revenue."

**Motion/Vote:** **SEN. CROMLEY** moved that **SEN. ESP'S AMENDMENT BE ADOPTED.** Motion carried 7-0 with **SEN. ESP, SEN. HARRINGTON,** and **SEN. O'NEIL** voting by PROXY.

**Motion/Vote:** **SEN. GRIMES** moved that **HB 698 BE CONCURRED IN AS AMENDED.** Motion carried 7-0 with **SEN. ESP, SEN. HARRINGTON,** and **SEN. O'NEIL** voting by PROXY.

**EXECUTIVE ACTION ON HB 384**

**Motion/Vote:** SEN. DEPRATU moved that HB 384 BE CONCURRED IN.

**Motion carried 7-0 with SEN. ESP and SEN. O'NEIL voting by PROXY.**

**EXECUTIVE ACTION ON HB 205**

**Motion/Vote:** SEN. DEPRATU moved that HB 205 BE CONCURRED IN.

**Motion carried 7-0 with SEN. ESP and SEN. O'NEIL voting by PROXY.**

**EXECUTIVE ACTION ON HB 484**

**Motion:** SEN. DEPRATU moved that HB 484 BE CONCURRED IN.

**Discussion:**

**SEN. GRIMES** moved Amendment HB048401.adb. **EXHIBIT (phs64a13)** He said it was a compromise between the various groups. The counseling groups had trouble with holding the offender accountable for all their violent or controlling behavior. The way he understood it, there were different modalities, separate therapeutic treatment options, which were not all used by everyone in each circumstance. The compromise balanced between forcing all the counselors holding the offenders absolutely accountable and not holding them accountable at all. **SEN. GRIMES** asked **Ms. Beth Satre, Coalition Against Domestic and Sexual Violence**, to explain the amendment. **Ms. Satre** said the issue of controlling and violent behavior and the power relationships that developed there were two primary components at which needed to continue to be looked at. There were domestic violence advocates in the field that worked with victims largely and there was batterer's intervention mandated by the courts. The people who provided the intervention were the social workers and the mental health workers and psychologists. In statute, anyone with a medical degree could oversee the assessment and the counseling. She said when talking with counselors, looking at the individual and judge how best to address the violent and controlling behavior was really important for them and they were very solid on that issue. Domestic violence advocates had some specific ideas on how they would like the counselors to think about addressing. They believed they could continue to do that through training and through continued cooperation within their group.

**SEN. GRIMES** said it made it more permissive and that there were some who would prefer it be mandated by the court. If the training got through, it would have to be further addressed in the next legislative session.

**Motion/Vote:** **SEN. GRIMES** moved that **AMENDMENT HB048401.ADB** BE **ADOPTED**. Motion failed 7-0 with **SEN. ESP**, **SEN. HARRINGTON**, and **SEN. O'NEIL** voting by **PROXY**.

**Motion/Vote:** **SEN. GRIMES** moved that **HB 484** BE **CONCURRED IN AS AMENDED**. Motion carried 7-0 with **SEN. ESP**, **SEN. HARRINGTON**, and **SEN. O'NEIL** voting by **PROXY**.

*{Tape: 4; Side: A}*

**EXECUTIVE ACTION ON SB 464**

**Motion:** **SEN. CROMLEY** moved that **SB 464** DO **PASS**.

**Discussion:**

**SEN. GRIMES** said **SEN. PRESIDENT KEENAN** had an amendment to his bill. **SEN. CROMLEY** moved Amendment SB046401.asb.  
**EXHIBIT (phs64a14)**

**Mr. Bohyer** said **Susan Fox** prepared these. He said the insertion to the Title largely described what the amendments would do, so that besides the licensure items that were already addressed in the bill, it would provide for licensure of the food establishments operated by the state, or a political subdivision of the state unless they employ a full time sanitarian. It exempted the establishments that were nonprofit that did not serve potentially hazardous food.

**SEN. BOHLINGER** said nine proponents spoke for the bill and there were no opponents.

**SEN. CROMLEY** said the county health departments supported the bill as well.

**Motion/Vote:** **SEN. GRIMES** moved that **AMENDMENT SB 046401.ASB** BE **ADOPTED**. Motion carried 7-0 with **SEN. ESP**, **SEN. HARRINGTON**, and **SEN. O'NEIL** voting by **PROXY**.

Motion/Vote: SEN. BOHLINGER moved that SB 464 DO PASS AS AMENDED. Motion carried 7-0 with SEN. ESP, SEN. HARRINGTON, and SEN. O'NEIL voting by PROXY.

*{Tape: 4; Side: B}*

**ADJOURNMENT**

Adjournment: 6:30 P.M.

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SEN. JERRY O'NEIL, Chairman

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ANDREA GUSTAFSON, Secretary

JO/AG

**EXHIBIT** (phs64aad)